



State of Utah

Department of  
Natural Resources

ROBERT L. MORGAN  
*Executive Director*

Division of  
Oil, Gas & Mining

LOWELL P. BRAXTON  
*Division Director*

OLENE S. WALKER  
*Governor*

GAYLE F. McKEACHNIE  
*Lieutenant Governor*

September 13, 2004

Carsten N. Mortensen  
Utelite Corporation  
P.O. Box 387  
6375 West Three Mile Canyon Road  
Coalville, Utah 84017

Subject: Formal Approval of Amended Large Mining Notice of Intention and Form and Amount of Replacement Reclamation Surety, Utelite Corporation, Utelite Mine, M/043/004, Summit County, Utah

Dear Mr. Mortensen:

On July 26, 2004, we received an amendment to the existing Letter of Credit issued by Wells Fargo Bank increasing the surety for your Utelite Mine to a new total of \$225,900 (formerly \$152,800). The new amount was to cover an increase in the total disturbed area from 48.7 acres to 70.4 acres. At that time, we asked that you provide a replacement Reclamation Contract to reflect the new area, along with a complete legal description and map of the total 70.4 disturbed area.

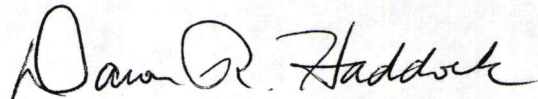
On August 9, 2004, we received your letter wherein you wanted to amend your notice to transfer acres in the existing mapped area, that won't be mined for years, for a new piece that you want to move onto. A meeting was held on site August 17<sup>th</sup> to map the new area and the area that would no longer be required. The map created from the GPS reading (enclosed) shows the current permitted area, the proposed addition and the proposed reduction, which brings the total to approximately 69 acres rather than 70.4 acres, which you submitted bond for in July. You asked that the surety and Reclamation Contract for 70.4 acres of disturbance not be changed; therefore, at the present time your bond covers approximately 1.4 acres more area than is necessary. While we consider your bond coverage to be adequate, this does not allow you to expand beyond the 69 acres approved in your plan.

Carsten Mortensen  
Page 2 of 2  
M/043/004  
September 13, 2004

On September 8, 2004, the Director of the Division of Oil, Gas and Mining formally approved the replacement Reclamation Contract and the increased surety for the Utelite mine. Copies of the fully signed and newly executed Reclamation Contract and the amended Letter of Credit are enclosed for your files. ***The Division hereby grants its final approval of your amended large mining notice of intention and the updated Reclamation Surety.*** You may now proceed with your mining operations in the area outlined on the map attached to the Reclamation Contract.

Thank you for your help in finalizing this permitting action. Please call me at (801) 538-5325 or Lynn Kunzler at 538-5310 if you have any questions in this regard. Best of luck with your mining operations.

Sincerely,



Daron R. Haddock  
Permit Supervisor  
Minerals Regulatory Program

DRH:jb  
Enclosure: Reclamation Contract w/attached map, map showing changes  
O:\M043-Summit\M0430004-UteliteMine\Final\apv-amend-09132004.doc



File Number M/043/004  
Effective Date Sept 8. 2004  
Other Agency File Number \_\_\_\_\_

**STATE OF UTAH**  
**DEPARTMENT OF NATURAL RESOURCES**  
**DIVISION of OIL, GAS and MINING**  
1594 West North Temple Suite 1210  
Box 145801  
Salt Lake City, Utah 84114-5801  
(801) 538-5291  
Fax: (801) 359-3940

**RECEIVED**

**AUG 20 2004**

**RECLAMATION CONTRACT**

---ooOoo---

DIV OF OIL GAS & MINING

For the purpose of this RECLAMATION CONTRACT the terms below are defined as follows:

"NOTICE OF INTENTION" (NOI): (File No.)	<u>M/043/004</u>
(Mineral Mined)	<u>"Mancos" Shale</u>
"MINE LOCATION":	
(Name of Mine)	<u>Utelite Mine</u>
(Description)	<u>Approximately 1/2 mile west of</u>
	<u>Rockport Reservoir and north of</u>
	<u>the town of Peoa, Utah</u>
"DISTURBED AREA":	
(Disturbed Acres)	<u>70.4</u>
(Legal Description)	<u>(refer to Attachment "A")</u>
"OPERATOR":	
(Company or Name)	<u>Utelite Corporation</u>
(Address)	<u>PO Box 387</u>
	<u>6375 West Three Mile Canyon Road</u>
	<u>Coalville, UT 84017</u>
(Phone)	<u>(435) 467-2800</u>



"OPERATOR'S REGISTERED AGENT":

Name)

(Address)

(Phone)

Lynn M. Carlson

4505 S. Wasatch Blvd. Suite 300

Salt Lake City, UT 84124

(801) 277-1040

"OPERATOR'S OFFICER(S)":

Carsten N. Mortensen, President

SURETY":

(Form of Surety - Attachment B)

Letter of Credit

"SURETY COMPANY":

(Name, Policy or Acct. No.)

Wells Fargo Bank, N.A.

"SURETY AMOUNT":

(Escalated Dollars)

\$225,900.00

"ESCALATION YEAR":

2009

"STATE":

"DIVISION":

"BOARD":

State of Utah

Division of Oil, Gas and Mining

Board of Oil, Gas and Mining

ATTACHMENTS:

A "DISTURBED AREA":

B "SURETY":

This Reclamation Contract (hereinafter referred to as "Contract") is entered into between Utelite Corporation the "Operator" and the Utah State Division of Oil, Gas and Mining ("Division").

WHEREAS, Operator desires to conduct mining operations under Notice of Intention (NOI) File No. M/043/004 which has been approved/accepted by the Utah State Division of Oil, Gas and Mining under the Utah Mined Land Reclamation Act, Sections 40-8-1 et seq., Utah Code Annotated, (1953, as amended) (hereinafter referred to as "Act") and implementing rules; and

WHEREAS, Operator is obligated to reclaim that area described as the Disturbed Area as set forth and in accordance with Operator's approved/accepted Reclamation Plan or Notice, and Operator is obligated to provide surety in form and amount approved by the Division, to assure reclamation of the Disturbed Area.



NOW, THEREFORE, the Division and the Operator agree as follows:

1. Operator agrees to conduct reclamation of the Disturbed Area in accordance with the Act and implementing regulations, the approved/accepted Notice of Intention and Reclamation Plan or Notice received January 13, 1978. The Notice of Intention and the Reclamation Plan, as amended, are incorporated by this reference and made a part hereof.
2. Concurrent with the execution hereof, Operator has provided surety to assure that reclamation is conducted, in form and amount acceptable to the Division. Such surety as evidenced by the Surety Contract is in the form of the surety attached hereto as Attachment B and made a part hereof. The Surety Contract shall remain in full force and effect according to its terms unless modified by the Division in writing. If the Surety Contract expressly provides for cancellation, then, within 60 days following the Division's receipt of notice that the Surety Company intends to cancel the Surety Contract, the Operator shall provide a replacement Surety Contract in a form and amount reasonably acceptable to the Division. If the Operator fails to provide an acceptable replacement Surety Contract, the Division may order the Operator to cease further mining activities and to begin immediate reclamation of the Disturbed Area.
3. Operator agrees to pay legally determined public liability and property damage claims resulting from mining to the extent provided in Section 40-8-7(1)(e) of the Act.
4. Operator agrees to perform all duties and fulfill all reclamation requirements applicable to the mine as required by the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
5. The Operator's liability under this Contract shall continue in full force and effect until the Division certifies that the Operator has reclaimed the Disturbed Area in accordance with the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
6. If reclamation of discrete sections of the Disturbed Area is completed to the satisfaction of the Division, and the Division finds that such sections are severable from the remainder of the Disturbed Area, Operator may request the Division to certify that Operator has reclaimed such discrete sections of the Disturbed Area in accordance with the Act and Implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended. If the Division makes such certification, Operator may make request to the Division that the aggregate face



amount of the Surety Contract provided pursuant to paragraph 2 be reduced to an amount necessary to provide for completion of the remaining reclamation. The Division shall hear Operator's request for such reduction in accordance with the Board's Procedural Rules concerning requests for Agency Action.

7. Operator agrees to indemnify and hold harmless the State, Board and the Division from any claim, demand, liability, cost, charge, suit, or obligation of whatsoever nature arising from the failure of Operator or Operator's agents and employees, or contractors to comply with this Contract.
8. Operator may, at any time, submit a request to the Division to substitute surety. The Division may approve such substitution if the substitute surety meets the requirements of the Act and the implementing rules.
9. This Contract shall be governed and construed in accordance with the laws of the State of Utah.
10. If Operator shall default in the performance of its obligations hereunder, Operator agrees to pay all costs and expenses, including reasonable attorney's fees and costs incurred by the Division and/or the Board in the enforcement of this Contract.
11. Any breach that the Division finds to be material of the provisions of this Contract by Operator may, at the discretion of the Division, result in an order to cease mining operations. After opportunity for notice and hearing, the Board of Oil, Gas and Mining may enter an order to revoke the Notice of Intention, order reclamation, or order forfeiture of the Surety Contract, or take such other action as is authorized by law.
12. In the event of forfeiture of the Surety Contract, Operator shall be liable for any additional costs in excess of the surety amount which are required to comply with this Contract. Any excess monies resulting from forfeiture of the Surety Contract, upon completion of reclamation and compliance with this Contract, shall be returned to the rightful claimant.
13. This Contract including the Notice of Intention, as amended and the Reclamation Plan, as amended, represents the entire agreement of the parties involved, and any modification must be approved in writing by the parties involved.
14. Each signatory below represents that he/she is authorized to execute this Contract on behalf of the named party.



OPERATOR:

Utelite Corporation  
Operator Name

By Carsten N. Mortensen  
Authorized Officer (Typed or Printed)

President  
Authorized Officer - Position

*Carsten N. Mortensen*  
Officer's Signature

8-20-04  
Date

STATE OF Utah )  
COUNTY OF Salt Lake ) ss:

On the 20<sup>th</sup> day of August, 2004, Carsten N. Mortensen personally appeared before me, who being by me duly sworn did say that he ~~she~~ is the President of Utelite Corporation and duly acknowledged that said instrument was signed on behalf of said company by authority of its bylaws or a resolution of its board of directors and said Carsten N. Mortensen duly acknowledged to me that said company executed the same.

Joelle Burns  
Notary Public  
Residing at S LC Utah



April 4, 2005  
My Commission Expires:



DIVISION OF OIL, GAS AND MINING:

By Lowell P Braxton  
Lowell P. Braxton, Director

Date 9/8/04

STATE OF Utah )  
COUNTY OF Salt Lake ) ss:

On the 8<sup>th</sup> day of September, 2004, Lowell P. Braxton  
personally appeared before me, who being duly sworn did say that he, the said  
Lowell P. Braxton is the Director of the Division of Oil, Gas and Mining,  
Department of Natural Resources, State of Utah, and he duly acknowledged to me that  
he executed the foregoing document by authority of law on behalf of the State of Utah.



Diane Holland  
Notary Public  
Residing at: Salt Lake City, Utah

5-01-2006  
My Commission Expires:



## ATTACHMENT "A"

Utelite Corporation  
Operator

Utelite  
Mine Name

M/043/004  
Permit Number

Summit County, Utah

### LEGAL DESCRIPTION

*Include 1/4, 1/4, 1/4 sections, townships, ranges and any other descriptions that will legally determine where disturbed lands are located. Attach a topographic map of suitable scale (max. 1 inch = 500 feet; 1 inch = 200 feet or larger scale is preferred) showing township, range and sections and a clear outline of the disturbed area boundaries tied to this Reclamation Contract and surety.*

**The detailed legal description of lands to be disturbed includes portions of the following lands not to exceed 70.4 acres under the approved / accepted permit and surety, as reflected on the attached map labeled Utelite Mine - Bonded Area and dated September 8, 2004 :**

Portions of:

SW1/4 of the SW1/4 of the SW1/4 of Section 4

S1/2 of the SE1/4 of Section 5

N1/2 of N1/2 of Section 8

NW1/4 of the NW1/4 of the NW1/4 of Section 9

Township 1 South, Range 5 East, SLBM

Summit County, Utah



Operations Group  
Northern California  
One Front Street, 21st Floor  
San Francisco, CA 94111



m/043/004

PAGE: 1

DATE: JULY 20, 2004

AMENDMENT TO CREDIT NO.

AMENDMENT NUMBER: 2

APPLICANT:  
UTELITE CORPORATION  
P. O. BOX 387  
COALVILLE, UT 84017

BENEFICIARY:  
UTAH DIVISION OF OIL, GAS & MINING  
1594 WEST NORTH TEMPLE, SUITE 1210  
BOX 145801  
SALT LAKE CITY, UT 84114-5801  
MARY ANN WRIGHT

THIS AMENDMENT IS TO BE CONSIDERED AS PART OF THE ABOVE CREDIT AND MUST BE ATTACHED THERETO.

THE ABOVE MENTIONED CREDIT IS AMENDED AS FOLLOWS:

THE AMOUNT OF THIS CREDIT HAS BEEN INCREASED BY USD 73,100.00.

THE AMOUNT OF THE CREDIT ISSUED NOW TOTALS USD 225,900.00.

THE FOLLOWING ADDITIONAL CONDITION HAS BEEN ADDED:

OUR MAILING ADDRESS HAS CHANGED TO ONE FRONT STREET, 21ST FLOOR, SAN FRANCISCO, CA 94111. PLEASE DIRECT ALL CORRESPONDENCE AND COURIER ALL DOCUMENTS FOR PRESENTATION UNDER THIS L/C TO OUR NEW SAN FRANCISCO ADDRESS.

ALL OTHER TERMS UNCHANGED.

-----  
AUTHORIZED SIGNATURE

LISA CHAU

PLEASE CONTACT AMY V. MARIO BY TELEPHONE AT 415-396-6209 OR BY FAX AT (415)284-9453 OR OUR HELPLINE AT 1-800-798-2815 OPTION 1 REGARDING ANY INQUIRIES.

RECEIVED  
JUL 26 2004

DIV. OF OIL, GAS & MINING

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